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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,001	03/16/2001	Michael John Brosnan	10010038-1	7300

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AGILENT TECHNOLOGIES  
Legal Department, 51U-PD  
Intellectual Property Administration  
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EXAMINER

TRAN, HENRY N

ART UNIT

PAPER NUMBER

2674

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/811,001

Applicant(s)

BROSNAN, MICHAEL JOHN

Examiner

HENRY N. TRAN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Application has been examined. The original claims 1-22 are pending. The examination results are as following.

#### ***Information Disclosure Statement***

1. The examiner has considered the references listed in the information disclosure statement (IDS) filed 3/16/01 (Paper No. 2) (see the attached form PTO-1449).
2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a digitizer" and "a correlator" (claims 8, 16, and 20) must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "200" and "202" have both been used to designate the "I/O interface" (see figure 3). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 5-8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon et al (U.S. Patent 6,057,540, hereinafter referred to as "Gordon") in view of Mugura et al. (U.S. Patent 6,208,342, hereinafter referred to as "Mugura").

7. Regarding claim 5, Gordon teaches an electronic device (a screen pointer control) for controlling a pointer moving on a display screen, comprising: a motion sensor 9 (a movement sensor 9) for sensing a relative movement between the tip 6 of a finger 7 and a surface 5 of the electronic device for generating a first and a second set of movement data representing first and second relative movements (a reference frame and a current frame representing movement data of a previous image and a present image, respectively), and a controller (a computer) for moving the pointer based on the first and second set of movement data (see figure 1; col. 2, line 57 to col. 3, line 10, lines 35-58; col. 6, lines 4-10; col. 8, lines 47-60, 64-67; and col. 9, lines 4-10, and lines 24-35). However, Gordon does not teach the following: (i) the electronic device is a

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portable electronic device; (ii) a menu display having a plurality of menu items and a menu item pointer for highlighting a particular menu item by the user; and (iii) the controller configured to highlight a first menu item based on the first set of movement data, and select the first menu item based on the second set of movement data. Mugura teaches a portable electronic device 10 (a cellular telephone 10) comprising a display 14 for displaying a menu display 22 including a plurality of menu items 12 (graphic images 12), and a menu item pointer 16 (a selectable graphic image 16) for highlighting a particular menu item by the user. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Mugura and of Gordon as discussed above for providing the claimed invention because this would provide an improve pointer control device, which is conveniently and effectively control a screen pointer by using optical motion sensor for detecting movement of an arbitrary surface (see Gordon, col. 2, lines 46-53).

8. Regarding claims 6-8 and 10, Gordon further teaches the use of: an optical motion sensor 9, which is an array of photo detectors (see col. 4, lines 39-45); a light source 2 (LED 2); a lens 4, 8; and a digitizer and a correlator (a computer having software program) for correlating and generating digital representations of the reflected images based on the output of the photo detector; and the portable electronic device 10 is a cellular telephone 10 (see references recited above). Claims 6-8 and 10 are dependent upon claim 5, and are therefore rejected on the same reasons set forth for claim 5, and by the reasons discussed above.

9. Claims 1-4 are method claims corresponding to the apparatus claims 5-8 and 10, and are rejected on the same basis set forth in claims 5-8 and 10 discussed above.

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10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Mugura (hereinafter referred to as "Gordon-Mugura") as applied to claims 1-8 and 10 above, and further in view of Adan et al (U.S. Patent 6,373,047, hereinafter referred to as "Adan").

Gordon-Mugura teach generally all as discussed in claim 5 except for the motion sensor is positioned on a back side of the portable electronic device. Adan teaches the motion sensor 110 (an image or pattern detector 110) positioned on a back side (the bottom of the housing 102) of the portable electronic device, which is a mouse 42 (see figure 3; and col. 7, lines 34-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teaching of Adan in the device of Gordon-Mugura because this would provide an added flexibility for easily and effectively controlling a portable electronic device. Claim 9 is dependent upon claim 9, and is therefore rejected on the same reasons set forth in claim 5, and by the reasons discussed above.

11. Claims 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Adan.

12. Regarding claims 14 and 18, Gordon teaches an electronic device including a motion sensor 9, and a computer having software program for storing movement pattern data, and for comparing the first set of motion data and the second set of motion data as discussed in claim 5 above. However, Gordon does not teach the controller is configured to identify the user of the portable electronic device. Adan teaches an portable electronic device 42 (a mouse 42) which is interface with a computer 20, wherein the movement pattern data from the surface 116 are used for user identification (see figures 1 and 3; also, col. 10, lines 9-12; col. 14, lines 17-20, lines 29-

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42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teaching of Adan in the device of Gordon because this would allow a portable electronic device allows or deny the user access using a simple pattern verification, which provides the enhanced functionality and reliability of an portable electronic device. By this rationale, claims 14 and 18 are rejected.

13. Regarding claims 11-13, 15-17 and 19-22, which are and apparatus method claims corresponding to the apparatus claims 14 and 18, and are therefore rejected on the same reasons set forth in claims 14 and 18, and by the reasons discussed above.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO 892.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HENRY N. TRAN whose telephone number is (703) 308-8410. The examiner can normally be reached on Mon - Fri from 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD A. HJERPE, can be reached at (703) 305-4709.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

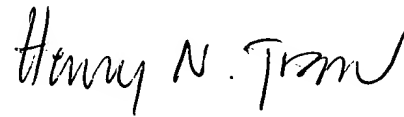
**or faxed to:**

**(703) 872-9314 (for technology Center 2600 only)**

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the Technology Center 2600 Customer Service Office Whose telephone  
number is (703) 306-0377.



HENRY N. TRAN  
Examiner  
Art Unit 2674

hnt  
March 9, 2003